

Assembly Bill No. 982

CHAPTER 485

An act to repeal and add Division 7.7 (commencing with Section 8700) of the Public Resources Code, relating to energy.

[Approved by Governor October 5, 2011. Filed with
Secretary of State October 6, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 982, Skinner. Energy: land exchange for renewable energy-related projects.

The School Land Bank Act vests the State Lands Commission, as a trustee, with the exclusive jurisdiction and authority to administer the School Land Bank Fund and the interest in land acquired pursuant to that act. The act authorizes the commission, acting as a trustee, to acquire interest in real property for the purposes of facilitating the management of school lands to generate income.

This bill would, contingent on the cooperation of the United States Secretary of the Interior, require the commission to enter into a memorandum of agreement by April 1, 2012, with the United States Secretary of the Interior to facilitate land exchanges consolidating school land parcels into contiguous holdings that are suitable for renewable energy-related projects. The bill would require the commission, by January 1 of each year, to report to the Legislature on the status of the memorandum of agreement and school land consolidation efforts for renewable energy-related projects. The bill would require that a portion of the revenues generated from renewable energy leases pursuant to provisions of the bill be made available to the commission, upon appropriation by the Legislature, to cover the commission's costs attributable to the land exchange process.

The people of the State of California do enact as follows:

SECTION 1. Division 7.7 (commencing with Section 8700) of the Public Resources Code is repealed.

SEC. 2. Division 7.7 (commencing with Section 8700) is added to the Public Resources Code, to read:

DIVISION 7.7. SCHOOL LANDS

CHAPTER 1. SCHOOL LAND BANK ACT

8700. This division shall be known and may be cited as the School Land Bank Act.

8701. The Legislature finds and declares as follows:

(a) Past policies of the state have resulted in significant depletion of the inventory of lands granted by the federal government to provide fiscal support for the public school system.

(b) It is essential that all remaining school lands and attendant interests be managed and enhanced to provide an economic base for support of the public school system.

(c) The commission shall plan and implement all transactions, including exchanges, sales, and acquisitions which would facilitate the management of school land interests for revenue generating purposes.

(d) The state, through the commission, shall take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base.

(e) It is in the best interest of the state that school lands be managed as a revenue source and it is the intent of the Legislature that fair market value be a primary criterion in determining if proposed uses or dispositions of land should be approved.

(f) The consolidation of school land parcels into contiguous holdings is essential to sound and effective management and the power to acquire lands by exchange or purchase is elemental to the consolidation process.

8702. Unless the context otherwise requires, the definitions in this section govern the construction of this division.

(a) “Commission” means the State Lands Commission.

(b) “Fund” means the School Land Bank Fund.

(c) “School land” means land or interests in land granted to the state by an Act of Congress March 3, 1853 (Ch. 145, 10 Stat. 244), for the specific purpose of providing support for the public schools.

(d) “Trustee” means the State Lands Commission acting in its role as trustee for the School Land Bank Fund.

8703. Acquisitions may be made by negotiated agreement with, or purchase from, the owners of the outstanding interests. Nothing in this division confers any authority to exercise the power of eminent domain for the purposes of this division, although that power is statutorily vested in the commission.

8704. The trustee shall make all reasonable attempts to acquire the mineral and other subsurface rights in any acquisition pursuant to this division. If the trustee is unable to acquire the mineral and other subsurface rights, the trustee may purchase real property upon the trustee expressly finding that the benefits to be derived from the acquisition are substantial

and that acquisition of the property without the subsurface rights is in the best interests of the state for the purposes set forth in this division.

8705. The trustee has the exclusive jurisdiction and authority to administer the fund and the interest in real property acquired pursuant to this division, including the selection, acquisition, and conveyance of real property by the trustee as provided in this division.

8706. The state, in its sovereign capacity, shall accept any conveyance, and the land shall thereafter be held by the state as land of the legal character of school lands subject to the school land trust under the jurisdiction of the commission pursuant to Division 6 (commencing with Section 6001).

8707. The commission shall accept the conveyances on the part of the state and shall authorize their acknowledgment and recordation.

8708. Until expended for acquisitions in accordance with this division, moneys in the fund shall be deposited in the Pooled Money Investment Fund and the interest deposited in the fund.

8709. In addition to the purchase price to be paid, the costs and expenses attributable to the acquisition may be payable from the fund, provided that those costs shall not exceed 5 percent of the expended funds.

8709.5. Expenses attributable to management and remediation efforts on state school lands are payable from the fund.

8710. An action under this chapter is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000)), the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

8711. There is in the State Treasury the School Land Bank Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are appropriated to the commission for expenditure, without regard to fiscal years, for the purposes of this division. When performing the powers and duties set forth in this division, the commission shall be known as the School Land Bank Trustee.

8712. The trustee may acquire real property or any interest in real property with the objective of facilitating management of school lands for the purpose of generating revenue.

8713. The trustee shall act only at an open, scheduled public meeting, subject to all provisions of Division 6 (commencing with Section 6001) relating to meetings of the commission. The trustee may combine its meeting with the meetings of the commission.

8715. The provisions of this division are not intended as exclusive, and shall not restrict the commission in otherwise meeting any other responsibilities and jurisdiction the commission presently has by law.

8716. The trustee may accept gifts of real property or money for the purposes of this division.

CHAPTER 2. LAND EXCHANGES FOR RENEWABLE ENERGY-RELATED PROJECTS

8720. The Legislature finds and declares all of the following:

(a) The high cost of energy is taking a financial toll on California's residents and economy, as well as making the state more dependent on foreign oil.

(b) California is home to abundant renewable energy resources, such as solar, wind, geothermal, and biomass.

(c) The State Lands Commission manages on behalf of the State Teachers' Retirement Fund (STRS) hundreds of thousands of acres of school lands, a great deal of which have significant potential for siting large-scale renewable energy projects.

(d) The State Lands Commission has a duty pursuant to the School Land Bank Act (Chapter 1 (commencing with Section 8700)) to take all action necessary to fully develop school lands into a permanent and productive resource base for the benefit of STRS.

(e) A significant amount of school lands are not producing revenue from large-scale renewable energy projects because they are isolated, landlocked parcels, the majority of which are remote desert lands. The consolidation of school land parcels into contiguous holdings would facilitate the sound and effective management of these lands for large-scale renewable energy projects.

(f) On October 16, 2008, the State Lands Commission adopted a resolution supporting the environmentally responsible development of school lands for renewable energy-related projects.

(g) If school lands are leased for large-scale renewable energy projects, the state will benefit in the form of reduced carbon emissions, a cleaner and healthier environment, affordable energy, stronger national security, new jobs, and more funding for STRS.

(h) It is the policy of the state to promote the advancement, development, assessment, and installation of large-scale renewable energy projects on school lands. Any consolidation and development of school lands for renewable energy should be done with assurances that the state's unique and sensitive environment will be protected.

8721. For the purposes of this chapter, "California desert" means the California Desert Conservation Area as described in Section 1781 of Title 43 of the United States Code.

8722. (a) The commission shall enter into a memorandum of agreement by April 1, 2012, with the United States Secretary of the Interior to facilitate land exchanges that consolidate school land parcels into contiguous holdings that are suitable for large-scale renewable energy-related projects. The memorandum of agreement shall be tailored, to the extent feasible, to prioritize land exchanges that are best suited for large-scale renewable energy project development, including for the purposes of mitigation of the impacts of that development.

(b) After the memorandum of agreement is entered into, the commission shall make best efforts to consolidate all school land parcels in the California desert into contiguous holdings for large-scale renewable energy-related projects.

(c) The commission shall report to the Legislature by January 1 of each year on the status of the memorandum of agreement and school land consolidation efforts in the California desert.

(d) The requirements of this section are contingent on the cooperation of the United States Secretary of the Interior.

8723. (a) Within 240 days of the execution of a memorandum of agreement pursuant to Section 8722, the commission shall prepare and submit to the United States Secretary of the Interior a proposal for land exchanges that consolidate school land parcels in the California desert into contiguous holdings that are suitable for large-scale renewable energy-related projects. In developing the proposal, the commission shall give priority to land exchanges that will facilitate the development of large-scale renewable energy projects.

(b) The commission's proposal shall be based on an acre-for-acre exchange with the United States. If the United States is not authorized to enter into such an agreement, the commission may propose an exchange based on equivalent appraised values.

(c) Notwithstanding subdivision (b), the commission may withhold a school land parcel from an exchange proposal or request additional consideration from the United States Secretary of the Interior if the commission reasonably believes, based on existing and reliable information, that an acre-for-acre exchange would not provide the state with compensation that is equal to or greater than the fair market value of the school land parcel. For the purposes of this subdivision, the commission shall consider the potential renewable energy value of a parcel the commission would receive in the exchange.

(d) In preparing the land exchange proposal, the commission shall consult with the Department of Fish and Game to identify areas in the California desert that would be consistent with the proposed or adopted provisions of the Desert Renewable Energy Conservation Plan and are either of the following:

(1) Suitable for renewable energy projects because the identified areas do not support habitat or habitat corridor values for species listed as threatened, endangered, or candidate species pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) or the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), that, in the judgment of the Department of Fish and Game, are sufficient to warrant consideration of their designation as a mitigation or conservation area for these species.

(2) Suitable as potential mitigation areas to mitigate the impacts that renewable energy-related projects may have on the environment.

(e) The commission's costs and expenses attributable to the land exchange process may be payable from the fund. Notwithstanding Section 6217.5, a

portion of the revenues generated from renewable energy leases pursuant to this chapter shall be made available to the commission, upon appropriation by the Legislature, to cover the commission's costs attributable to the land exchange process.

(f) The commission may consider counter land exchange proposals from the United States Secretary of the Interior and make additional proposals to the extent that the additional proposals achieve the goals set forth in this chapter.

(g) Final approval of a land exchange proposed pursuant to this chapter shall be made by the commission at a properly noticed commission meeting.